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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,721	03/04/2005	Jean-Francois Wittmann	2002CH204	9622
25255 7590 02/22/2008 CLARIANT CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 4000 MONROE ROAD CHARLOTTE, NC 28205			EXAMINER ABU ALI, SHUANGYI	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 02/22/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/526,721

**Applicant(s)**

WITTMANN, JEAN-FRANCOIS

**Examiner**

SHUANGYI ABU ALI

**Art Unit**

1793

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**(1)**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/27/2007 has been entered.

**(2)**

***Status of Claims***

Claims 1-23 remain for examination wherein claims 1, and 21-23 are amended and claims 4 and 15 are canceled.

**(3)**

***Response to Arguments***

Applicant's arguments with respect to claims 1- 23 about the limitation that the pellets or micro pellets have substantially equal electrostatic properties have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Findley et al. disclose two separate pellets; they are silent about combining the two pellets together to make a masterbatch. The Examiner respectfully submits that combined teaching of Findley, JP Publication No. 62085908

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(newly cited reference) and U.S. Patent No. 6,224,799 to Gould disclose the making of the masterbatch. (Please see the following claim rejections)

Since the rejection of claim 1 is valid, the rejection of the remaining claims stands.

(4)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8, 10, 12, and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,176,751 to Findley, in view of JP Publication No. 62085908.

Regarding claims 1, 8 and 21-23, Findley discloses a colorant concentrate comprising a resin and 30-90% pigment (col. 4, lines 8 and 9) and an additive concentrate comprising a resin and fillers or UV stabilizers (col. 11, lines 50-65)). But

they are silent about the density and electrostatic of the colorant or additive concentrate as set forth in claims 1 and 21-23.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to make the additive and colorant concentrate having a similar density as raw resin's density, motivated by the fact that '908, also drawn to masterbatch, discloses that the pellets with the similar density and electrostatic will improve the uniform mixture for extrusion process (abstract).

Regarding claims 2 and 3, Findley discloses that the pellets of the concentrates conventionally have the same size and shape as the raw resins (col. 1, lines 36-40).

Regarding claims 5 and 17-18, Findley discloses the concentrate pellet size is in the range of 3.175-6.35 mm (col. 1, lines 37-38).

Regarding claims 6 and 19, Findley discloses the raw resin is low-density polyethylene, which has a density of 0.92 g/cm<sup>3</sup> (col. 8, lines 21).

Regarding claim 7, Findley discloses a masterbatch comprising an additive concentrate and a color concentrate (col. 11, lines 42-48).

Regarding claims 8 and 10, Findley discloses various fillers added into the resin pellet to substitute pigments (col. 11, lines 54-55).

Regarding claims 12 and 20, Findley discloses an additive concentrate and a color concentrate added to raw resin to make an article (col. 11, lines 40-50).

Regarding claim 14, Findley discloses a process of making a colored article (col. 11, lines 40-48).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of U.S. Patent No. 5,176,751 to Findley and JP Publication No. 62085908, in view of U.S. Patent Publication NO. 2002/0198122 A1 to Nitzsche et al.

Regarding claim 9, Combined teaching of Findley and JP Publication No. 62085908 disclose a color concentrate and an additive concentrate. But they are silent about reducing the pellet weight by adding blowing agent as set forth in claim 9.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to use blowing agent as applicant set forth in claim 9, motivated by the fact that Nitzsche, also drawn to making a masterbatch, discloses that adding blowing agent to the color concentrate can reduce the weight of the concentrate (col. 7, lines 19 and 20).

(6)

Claim 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of U.S. Patent No. 5,176,751 to Findley and JP Publication No. 62085908, in view of U.S. Patent No. 6,224,799 to Gould

Regarding claim 11, Combined teaching of Findley and Furukawa disclose a color concentrate and an additive concentrate. But they are silent about making a masterbatch as set forth in claim 11.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to make an additive color concentrate set forth in claim 11, motivated by the fact that Gould, drawn to make an additive color concentrate, discloses that it is a simple process to make the additive color concentrate (col. 5, lines 50-52).

Regarding claim 13, combined teaching of Findley and JP Publication No.

62085908 disclose a method of making an article through a color concentrate and an additive concentrate. But they are silent about making a fiber as set forth in claim 14.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to make an additive color concentrate set forth in claim 14, motivated by the fact that Gould, drawn to make an additive color concentrate, discloses that it is a simple process to make the additive color concentrate in fiber form (col. 5, lines 50-52, col. 1, lines 62 and 63).

(7)

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over combined teaching of U.S. Patent No. 5,176,751 to Findley and JP Publication No. 62085908, in view of U.S. Patent No. 3,778,288 to Ridge et al.

Regarding claim 16, Combined teaching of Findley and JP Publication No.

62085908 discloses a color concentrate and an additive concentrate. But they are silent about the size of the pellets as set forth in claim 16.

However, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to make the pellet size in the range as applicant set forth in claim 16, motivated by the fact that Ridge et al., also drawn to making master batches, disclose that such size is the standard requirement for US market (col. 4, lines 45).

(8)

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHUANGYI ABU ALI whose telephone number is (571)272-6453. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sa

/Jerry A Lorengo/  
Supervisory Patent Examiner, Art Unit 1793